

## REMARKS

In the Office Action dated June 18, 2003, claims 1–21 were considered. The Office Action rejects claims 1–8, 10–13, and 15–21 under 35 U.S.C. §102(b) over U.S. Patent No. 4,941,168 issued to Kelly, Jr. and claim 9 under 35 U.S.C. §103(a) over Kelly, Jr. in view of U.S. Patent No. 5,371,787 issued to Hamilton. According to the Office Action, claim 14 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Applicant amends claims 1, 3–15, and 17–20, and cancels claims 2, 16, and 21. The amendments to independent claim 1 are supported by the specification, at least at pages 13–14, the drawings, such as FIG. 4, and originally-filed claim 2. Claim 8 is re-written into independent form. The amendments to claim 8 are supported by the specification, at least at pages 8–9, 12–13, and 18–19, and are further supported by the drawings, such as FIGS. 2–4. Claim 9 is also re-written into independent form. The amendments to claim 9 are supported by the specification, at least at pages 8–9 and 18, and are further supported by the drawings, such as FIGS. 2–4. The amendments to independent claim 15 are supported by the specification, at least at pages 7 and 13–14, the drawings, such as FIG. 4, and originally-filed claim 16. Dependent claims 3–7, 10–14, and 17–20 are amended to address minor wording issues. No new matter is entered by the present amendments.

### **Claims 1, 3–8, 10–13, 15, and 17–20 Distinguish over Kelly, Jr.**

Claims 1–8, 10–13, and 15–21 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,941,168 issued to Kelly, Jr. Claims 2, 16, and 21 are cancelled, thereby rendering the rejection moot with respect to those claims. Applicant respectfully submits that amended independent claims 1, 8, and 15 patentably distinguish over Kelly, Jr. Claims 3–7, 10–13, and 17–20 depend, either directly or indirectly, from either amended independent claim 1 or amended independent claim 15 and, as such, Applicant respectfully submits that those claims are also patentable over Kelly, Jr. Accordingly, Applicant respectfully requests that the Examiner pass these claims, as amended, to allowance.

Kelly, Jr. teaches an automated telephone dialing system for recognizing electronically whether a called party is a human subject or an automated telephone answering device. See

Abstract. During the process of determining the presence or absence of a recording, the system can play a voice message or a prompt to the answering party. See Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210. See also Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. Depending upon how the answering party responds to the audio instruction, the system determines if the respondent is either human or machine. See Col. 2, ln. 30 – ln. 34.

The system disclosed in Kelly, Jr. can, for example, play a voice message to the effect of “One moment please . . .” See Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210. Following this playing of the voice message, the system can then call a Silence Detection Operation. See Col. 6, ln. 27 – ln. 28, and FIG. 7, Step 214. If the system detects a pre-determined amount of continuous silence, the called party is determined to be a live person; otherwise, if there is audio present for most of the time following the playing of the voice message, the called party is determined to be a telephone answering device. See Col. 6, ln. 29 – ln. 40.

In contrast to determining that the called party is a telephone answering device if there is audio present for most of the time following the playing of a voice message, as described in Kelly, Jr., both the Applicant’s amended independent claims 1 and 15 recite the playing of a prompt and a voice message server that determines “the telephone line pick-up [to be] by an existing answering machine if there is talk-over during the playing of the prompt.” (emphasis added).

Since Kelly, Jr. fails to teach or suggest a system where the called party is determined to be an answering machine if there is talk-over during the playing of the prompt, as recited by Applicant’s amended independent claims 1 and 15, Applicant respectfully requests that the Examiner reconsider and withdraw any rejections of amended independent claims 1 and 15 based on Kelly, Jr. Because claims 3–7, 10–13, and 17–20 depend, either directly or indirectly, from either amended independent claim 1 or 15, Applicant respectfully submits that these claims are allowable as well.

The voice message played by the system disclosed in Kelly, Jr. can, alternatively, request a called party to press a specific dial tone. See Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. If the system detects the requested dial tone, the called party is determined to be a live person; otherwise, the called party is determined to a telephone answering device. See col. 8,

✓ | ln. 1 – ln. 8. Kelly, Jr. does not disclose, however, prior to the playing of the voice message that requests the called party to press the specific dial tone, the playing of a different voice message.

In contrast, Applicant's amended independent claim 8 recites "playing, by a voice message server, a first voice message to the Recipient [and] playing, by the voice message server, a second voice message, different from the first voice message, that requests a touch-tone input from the Recipient."

Since Kelly, Jr. fails to teach or suggest a system where a first voice message is played to a called party, following which a second voice message, different from the first voice message, is then played to the called party, as recited by Applicant's amended independent claim 8, Applicant respectfully requests that the Examiner reconsider and withdraw any rejections of amended independent claim 8 based on Kelly, Jr.

**Claim 9 Distinguishes over Kelly, Jr. and Hamilton Does Not Remedy the Defects of Kelly, Jr.**

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kelly, Jr. in view of U.S. Patent No. 5,371,787 issued to Hamilton. Applicant respectfully traverses this rejection, as applied to amended independent claim 9.

Applicant's amended independent claim 9 recites "requesting, by a voice message server, a specific speech input from the Recipient." Applicant respectfully submits that both Kelly, Jr. and Hamilton fail to teach or suggest a system that requests a specific speech input from a called party.

Specifically, as discussed hereinabove, Kelly, Jr. only discloses a system that plays a voice message to the effect of "One moment please . . .," See Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210, or that requests, in the alternative, a called party to press a specific dial tone. See Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210'. Kelly, Jr. does not disclose, however, requesting a specific speech input from the called party.

Hamilton teaches methods and apparatus for detecting whether a telephone call was answered by an answering machine or by a live person. See Col. 1, ln. 5 – ln. 11. Various measures of an incoming telephone signal are analyzed by the methods and apparatus of the

invention to determine whether the telephone call was answered by an answering machine or by a live person. See Col. 3, ln. 17 – ln. 34. Like Kelly, Jr., however, the methods and apparatus of Hamilton do not request a specific speech input from a called party.

Since Hamilton fails to remedy the defects of Kelly, Jr., Applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of amended independent claim 9 based on the combination of Kelly, Jr. and Hamilton.

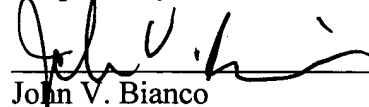
**CONCLUSION**

In view of the above amendments and remarks, Applicant submits that claims 1, 3-15, and 17-20 are in condition for allowance and requests that the Examiner pass this application to allowance.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

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Reg. No.: 36,748  
Tel. No.: (617) 248-7870  
Fax No.: (617) 248-7100

Respectfully submitted,



John V. Bianco  
Attorney for the Applicant  
Testa, Hurwitz & Thibeault, LLP  
High Street Tower  
125 High Street  
Boston, MA 02110

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